



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Auto-X, Inc.
File: B-231480.3
Date: September 28, 1988

DIGEST

Protest that specification is in excess of contracting agency's minimum needs and is unduly restrictive of competition is denied where protester, while disagreeing with agency analysis, fails to show that agency lacked reasonable basis for requiring that an automatic exhaust fan shut-off be installed with stovetop fire extinguishing devices for kitchens in military family housing.

DECISION

Auto-X, Inc. protests that a specification of invitation for bids (IFB) No. F02601-88-B-A023, issued by the Base Contracting Division, Davis-Monthan Air Force Base, for fire extinguisher systems, is unduly restrictive of competition.

We deny the protest.

On May 6, 1988, the agency issued the IFB for automatic stovetop fire extinguishing devices capable of detecting, suppressing, and preventing reignition of kitchen stovetop fires in military family housing. The IFB required that the equipment terminate the basic heat source, sound an alarm, include an ancillary function module designed to shut off gas or electricity to the range surface, and also shut off electricity to the range hood (i.e., the stove exhaust fan).

Early in June, the protester contacted the agency to request amendment of the IFB to delete the requirement for automatic exhaust fan shut-off. The protester stated that continued operation of the exhaust fan was necessary to remove toxic fumes; in the alternative, the protester requested a waiver of liability resulting from any injuries suffered from such fumes. The agency declined either to amend the specification or to issue any waiver of liability.

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On July 5, 1988, 3 days prior to the scheduled bid opening date, Auto-X filed this protest, objecting to the requirement for a shut-off of electricity to the range hood. The protester argues that its system does not require that the stove exhaust be shut off because its wet chemical agent produces rising vapors that will mask a fire in addition to interrupting oxidation and that with its system the continued circulation of air is advantageous because it spreads the fire retardant and removes toxic vapors.

When a protester challenges a specification as being unduly restrictive of competition, the burden initially is on the procuring agency to establish prima facie support for its contention that the restriction is needed to meet its minimum needs. Once the agency establishes this prima facie support, the burden shifts to the protester to show that the requirement complained of is clearly unreasonable. Pem All Fire Extinguisher Corp., B-231478, July 27, 1988, 88-2 CPD ¶ 95.

The agency argues that the automatic exhaust fan shut-off is necessary and desirable. Despite its efforts to encourage family housing occupants to clean exhaust fan filters regularly, the agency's experience is that grease buildup on the exhaust fans has resulted in a constant threat that stovetop fires will spread to the exhaust system. Second, the agency believes that the ducts leading from the exhaust fan can spread fire through conduction of heat to abutting combustible material such as wood trusses, dry wall, particle board and paper backing insulation. For these reasons, the agency believes it best to shut off the exhaust to prevent the fan from spreading heat and flame to vulnerable surfaces. Further, the agency argues that continued operation of the fan is hazardous since it will draw fresh air to the stovetop, renewing the supply of oxygen to the fire. The agency believes that there are systems available that do not result in production of toxic fumes and do not therefore require operation of the exhaust fan to remove such fumes. In our opinion, the agency has established prima facie support for the challenged requirement.

In response, the protester argues that even with the fan off, the exhaust duct can still conduct heat and flame. The protester asserts that the quicker action of its wet chemical agent negates any advantage from shutting off the exhaust fan. Rather, the protester believes that an

operating fan will spread the fire retardant more efficiently and can safely remove toxic byproducts of combustion. Finally, the protester argues that an automatic fan shut-off in fact detracts from the retardant potential of an extinguisher.

The solicitation states that the purpose of the system is "to extinguish the fire before it grows beyond the boundaries of the range surface." Despite the protester's assertions, the record reasonably shows that providing an automatic shut-off of the exhaust fan reduces the possibility of fire spread to the fan filter and adjacent areas, particularly in the event of extinguisher system failure. The protester has not demonstrated otherwise. While the protester argues that the automatic shut-off may fail, we see this argument as less compelling than the agency's argument that a potential failure of the extinguisher presents a greater hazard. See, for example, Pem All Fire Extinguisher Corp., B-231478, supra. Furthermore, we note that none of the promotional literature supplied by the protester suggests that continued operation of the stove exhaust fan is advantageous for operation of its system; were such operation advantageous, we would expect the protester to so advise its customers.

We deny the protest.

for *James F. Hinchman*
James F. Hinchman
General Counsel